

PENTAGON PAPERS DEFENSE

WEEKLY SUMMARY #18

May 11, 1973

CASE DISMISSED

At 2:05PM, Friday, Pentagon Papers Trial Judge Wm. Matthew Byrne dismissed the indictment against Daniel Ellsberg and Anthony Russo. Citing a long list of incidents of government misconduct Byrne said that "improper government conduct has precluded a fair and impartial trial." Byrne said angrily that the government's conduct "offends the sense of justice and has infected the prosecution."

Byrne referred repeatedly to the Hunt-Liddy White House investigation of the case and the burglary of the office of Daniel Ellsberg's psychiatrist. He said that "we may never know the full story of the activities of this special unit."

Byrne also said that on the matter of wiretaps which turned up on Thursday "improper government conduct has been shielded so long from public view that no investigation can provide satisfactory answers."

Byrne dismissed the indictment so that "the defendants should not have to run the risk of being tried again."

BACKGROUND

Friday's proceedings were necessitated by the unexpected disclosure of a wiretap. On Thursday morning, Judge Byrne gave the defense a "Preliminary Report Concerning Ongoing Investigation of Possible Wire Taps of Newsmen and Others" by Acting FBI Director, Ruckelshaus. The report read as follows:

"Shortly after assuming office as Acting Director of the FBI my attention was called to the newspaper allegation that FBI personnel had been wire tapping unidentified newsmen. I was also informed that a search of the FBI records had not disclosed the existence of any such wire taps. Nevertheless, on May 4, 1973, I initiated an investigation to interview present and retired FBI personnel for the purpose of determining, if possible, whether there had been any such taps. A preliminary report which I received last night indicates that an FBI employee recalls that in late 1969 and early 1970 Mr. Ellsberg had been overheard talking from an electronic surveillance of Dr. Morton Halperin's residence. It is this employee's recollection that the surveillance was of Dr. Halperin and that Mr. Ellsberg was then a guest of Dr. Halperin."

"I have no information concerning the substance of the conversation nor has the investigation to date been able to find any record of such a conversation. The investigation, of course, is not complete and further facts bearing upon the wire taps may be uncovered. Nevertheless, in view of the Court's expressed desire for prompt information relating to this matter, I am at this time giving you this preliminary report which may be relevant to the trial now in progress."

Judge Byrne, already nettled by the Watergate disclosures and the slow pace with which the prosecutor was delivering information to the court, ordered the prosecutor to call Washington and get more information immediately. In the afternoon, the prosecutor turned over a memorandum from Henry Petersen (see pages 9 and 10). In a sharp exchange with the prosecutor Byrne said that the memorandum was hardly satisfactory. He then ordered the defense and prosecution to prepare the arguments for a motion to dismiss the indictment.

A motion to dismiss the indictment because of gross prosecutorial misconduct was still before the court from last week. Earlier this week Byrne asked the defense to argue motions for dismissal because of unconstitutionality and a motion for a judgment of acquittal. Byrne had said that he wanted to delay his dismissal ruling until he had "all the dispositive motions before him."

The defense urged Byrne not to dismiss the indictment because of the wiretap situation. Leonard Boudin, Ellsberg's chief counsel, argued that after two years of trial and the conclusion of evidence, the defendants are entitled to a ruling on acquittal. Boudin also asked the Judge to rule on more substantive motions regarding the very constitutionality of the indictment. Boudin stressed the importance of not bypassing these crucial issues by throwing the trial out on technical wiretap grounds. Byrne said: "I'll have to follow procedures."

HEARINGS URGED

Earlier, the defense had also asked Byrne to hold hearings on the burglary-Watergate matters after dismissing the indictment. The defense argued that the indictment should be dismissed first, so that the defense would not have to suffer the expense of a hearing during the trial.

The defense also pointed to newspaper reports indicating that Nixon, invoking national security, sought on at least two occasions to prevent the release to the court of details about the Fielding burglary. Seymour Hersh reported that Henry Petersen "had pondered about the Presidential order for a few days and finally decided that 'he just couldn't live with himself' if he withheld the information about Hunt and Liddy."

The defense suggested that the President be called to testify at a hearing. Boudin remarked that three recent cases indicate "that the President is not only liable to suit, but to subpoena of the court."

Charles Nesson, Ellsberg's co-counsel, said: "Is Mr. Nixon different than some other man who would impede a turnover of materials to this court? If it were someone else, what would happen in that situation?"

"Now Mr. Nixon is President of the United States, and he has already served notice, publicly, that he intends to claim Executive Privilege on any conversations of his. Now I have never heard of Executive Privilege protecting the President from criminal violations or inquiry connected with criminal actions."

Looking at Byrne, Nesson remarked: "When you were called to San Clemente and offered a job and given the hand of the President, I think he told you at that point, in some symbolic way, where his Presidency is at. I think that this information that Mr. Nixon is impeding the flow of information to the court, puts the question to the court of whether Mr. Nixon will be told where the judiciary is at."

HUNT'S STORY

E. Howard Hunt's grand jury testimony was received late Friday afternoon, May 4.

Upon the recommendations of Charles W. Colson and John D. Ehrlichman, Hunt, an author of more than 40 spy novels, was hired on July 6, 1971, to work with what has been variously called "Room 16", "the plumbers", the "black squad" and the "vigilante squad." "Room 16" was located in the Executive Office Building. "Operational direction" was provided by Egil Krogh.

Hunt said that "there was an intense amount of interest in Ellsberg. Ellsberg had been indicted not long before, and the White House had been receiving, I believe on a daily basis, reports from the FBI and other law enforcement agencies. I was given access to all of this material on an absolutely routine basis." Hunt indicated that there were White House fears that Ellsberg would become a martyr. So it was "suggested that it would be well if some way could be found whereby a judgment call could be made on Ellsberg in regard to...his prosecutability. To that end extracts were made of material dealing with Dr. Ellsberg's rather peculiar background."

"I don't know who mentioned the possibility of a bag job on the psychiatrist's office first," continued Hunt, "but it became a topic of low key conversation around the office." Hunt suggested that the FBI do it, but was told that "under Mr. Hoover's aegis, the FBI had ceased training its agents in entry operations." Hunt then suggested the Secret Service. The reply "was that the White House did not have sufficient confidence in the Secret Service in order to entrust them with a task of this sort." So the job fell on Hunt and G. Gordon Liddy. They flew to Los Angeles "to make a preliminary vulnerability and feasibility study." Mr. Krogh authorized the study. David Young also knew about it.

"We did a rather thorough, professional study of the objectives," said Hunt proudly. They took pictures inside and outside of Dr. Fielding's office with a special camera "concealed inside a tobacco pouch. It was an experimental model," added Hunt. The camera was issued through a Technical Services Representative of the Central Intelligence Agency. Hunt met him at a "safehouse on upper Massachusetts Avenue near the Cathedral on the West side of the street." He defined a "safehouse" as "an area of one sort or another where people on clandestine business are able to meet and transact their business without fear of interruption, of being identified, or being overheard."

Hunt tried a "mouth device" and received a disguise, false papers identifying him as Ed Warren, and a "sterile number at the CIA to call when a material requirement needed to be met." A "sterile number is an unlisted number whose billings are not reflected." Liddy received similar materials and a false identity as George Leonard. Hunt said that the arrangements with the CIA were made through Krogh.

It was later learned that the arrangements were made with Gen. Robert E. Cushman, Commandant of the Marine Corps, who was then Deputy Director of the CIA. Seymour Hersh reported that Cushman "acted at the request of John D. Ehrlichman." A memorandum from an unidentified CIA agent reports that on August 27, 1971, General Cushman "called the appropriate individual in the White House" and explained that the CIA could no longer "meet the kinds of requests Mr. Hunt was levying. The White House official stated he would restrain Mr. Hunt."

Hunt testified that he flew to Miami to recruit Bernard Barker, a former CIA colleague. In turn, Barker recruited a Mr. Martinez and a Mr. Felipe DeDiego (the same individual who was hired again in May, 1972, to assault Ellsberg at an anti-war demonstration in Washington, D.C.). Hunt told Barker that the burglary was "a national security operation." Barker and his Cuban friends performed the burglary while Hunt and Liddy provided outside reconnaissance. Hunt had been instructed "that no one with any association with the White House could be involved in any way directly with such an operation."

Hunt continued: "We wanted a pretexted entry, a fact that was obtained by equipping two of the men from Miami with delivery men's clothing and a large green suitcase which actually carried the camera equipment. The suitcase was adorned with Air Express stickers." They were admitted and "deposited the suitcase inside the office. Then they punched the unlocking button on the inside of the door and departed." When they returned later that night after the cleaning people had left, they found the door locked. So they had to break in. Hunt said that the burglars went "through every file in Dr. Fielding's office, including the one in his desk, and that there had been absolutely no material in it with the name of Ellsberg on it." [The defense maintains that materials on Ellsberg and the Pentagon Papers were in Fielding's office at the time]. The burglars "took a Polaroid shot of the open files by way of indicating that the job had actually been accomplished."

Hunt and Liddy returned to Washington and "made a full report to Mr. Krogh and Mr. Young." Hunt told them "that there were no fingerprints left behind. It was a clean operation, but it had failed to produce." Hunt and Liddy were paid for their work. (Hunt was a \$100 a day consultant to the White House). Barker, Martinez, and DeDiego were reimbursed for "their plane fares, and a moderate amount of money to reimburse them for time lost in the real estate business."

Hunt also approached Charles Colson and said, "I have something that might be of interest to you. It has to do with my activities this past weekend." Colson replied: "I don't want to hear anything about them."

Since the office burglary bore no fruit, there were conversations around "Room 16" about burglarizing Fielding's home. But Hunt and Liddy were finally told to "forget about" any other burglaries.

It then occurred to Hunt "that the CIA might be helpful in providing a psychiatric profile." The CIA has "a whole psychiatric unit set up to provide in effect second-hand profiles of persons of interest to the United States government." Hunt contacted the head of the unit, Dr. Bernard Melloy. "In due course we embarked upon a program in which we assisted Dr. Melloy by providing him excerpts of FBI reports and other materials relating to Dr. Ellsberg so that he could construct this sort of psychiatric profile." Melloy later supplied them with a profile report.

HUNT FORGES CABLES

"Room 16" was apparently interested in helping to short-circuit any attempts by Ted Kennedy to win the Democratic Presidential nomination. Hunt testified that he poured through State Department files comparing their cables to those in the Pentagon Papers. Hunt told Charles Colson that some materials on John F. Kennedy's involvement in the 1963 overthrow and assassination of Ngo Dinh Diem appeared to be missing. Hunt said: "I showed him three or four cables that indicated that they had pretty close to pulled the trigger against Premier Diem's head, but it didn't say so in so many words. [Colson] said, 'Well, this isn't good enough. Do you think that

you could improve on them?' I said, 'Yes, but not without technical assistance.' After all, I had been given some training in my past CIA career to do just this sort of thing and had done it successfully on numerous occasions, floating forged newspaper accounts, telegrams, that sort of thing."

"So he [Colson] said, 'Well, we won't be able to give you any technical help. This is too hot. See what you can do on your own.'"

"With the very meager means at my disposal, which were literally a Xerox machine in the White House, a razor blade and a typewriter (which was not the same one as had been used on the original cables) I set about creating two cables which bore on that particular period. And simply by Xeroxing and re-Xeroxing, I substituted a text for what had previously been a legitimate cable."

"I was not satisfied with the results. I showed them to Colson. He seemed to like them. I said, 'These will never stand any kind of scrutiny.'" Hunt was concerned about the different type face used in his forgery. He said: "If anybody was going to see these cables, they'd simply have to see them. They could never be published because after the Alger Hiss case everyone was typewriter conscious."

Shortly after the forgery, Colson told Hunt that William Lambert of Time-Life would be coming to his office. Colson said: "Show him these cables. But don't let them get out of your hands." Hunt showed Lambert several cables including the forgeries. "Mr. Lambert was quite exultant over the find. Wanted to know if he couldn't take them immediately. I obviously said, 'No, you may not, but you may read the text. If you care to, you may copy the text down.' So he spent some time copying them on a yellow pad and he never saw the cables again."

According to newspaper reports, on June 28, 1972 John Dean gave L. Patrick Gray two folders of documents belonging to Hunt. Gray is reported to have destroyed them by depositing them in his "burn bag." The forged cables are said to have been among those documents.

The defense has pointed to this in support of an earlier pre-trial motion for dismissal of the indictment for "selective and discriminatory prosecution." Hunt was given unauthorized access to State Department cables and was then involved in leaking cables, including the forgeries, to Lambert a person, according to the government's theory in the Pentagon Papers trial, "not authorized to receive them." Leonard Boudin, Ellsberg's chief counsel, remarked that at the very least, if the defense had known about this during the pre-trial period, the motion for dismissal would have been much stronger.

The defense also argued that the materials destroyed by Gray may have been evidence relevant to the trial. If the defense had known about the cables, steps might have been taken to prevent their destruction. They may have been especially relevant in light of the fact that the government's principal "national defense" witness, Brig. Gen. Gorman, had testified at length that the materials and cables in the Pentagon Papers regarding American participation in the Diem overthrow could have injured the United States and advantaged a foreign nation in 1969.

KROGH TALKS

Egil Krogh was a White House aide in 1971 who provided "operational direction" for "Room 16." Krogh later became Under Secretary of Transportation. He took an abrupt leave from his position last week when

John Ehrlichman named him in an FBI interview in connection with "Room 16" and the burglary.

On Monday, May 7, Judge Byrne turned over to the defense a statement from Krogh who said that he "was personally told by President Nixon, in the presence of John Ehrlichman, that the continuing 'leaks' of vital information were compromising the national security of the United States." Nixon instructed Krogh "to move ahead with the greatest urgency to determine the source of 'leaks.'" Krogh said that he also "received information suggesting that Dr. Ellsberg did not act alone and that the so-called Pentagon Papers were in the possession of the Soviet Embassy, Washington, D.C. prior to their publication by The New York Times suggesting an effort to aid and abet an enemy of the United States through an ally."

Krogh said "that to his information and belief one reason for undertaking an independent investigation centralized in the White House staff was that a close personal relationship existed between J. Edgar Hoover and Mr. Louis Marx, father-in-law of Dr. Daniel Ellsberg." Krogh said that Hoover agreed to the White House investigation.

Krogh reported that "general authorization to engage in covert activity to obtain a psychological history or ascertain associates of Dr. Ellsberg was given to the special unit by John D. Ehrlichman." Krogh then agreed to the burglary "with the understanding that Hunt and Liddy would obtain the service of certain Cubans to accomplish the mission." Krogh "attached a condition to the mission that Hunt and Liddy were not to be in the close proximity of Dr. Fielding's office." He said that the mission cost \$2000. Krogh added that Hunt stressed to him "that only expense money would be accepted by those who had been recruited for this effort as this was a contribution to the security of the United States and no profit should be derived."

Krogh reported the burglary to Ehrlichman "with the recommendation that any additional covert activity be disapproved." Ehrlichman agreed, and told Krogh "that the activity far exceeded the scope of any covert activity which had been approved in general in advance."

MANY PIECES MISSING

The sordid Watergate puzzle is hardly complete. As the Watergate information dripped into the courtroom from the prosecutor's investigative eyedropper, the defense repeatedly protested the "snail-like pace." The defense pointed out that the press was being far more effective and helpful to the court.

A 28-page chronology from Hunt's safe on Ellsberg from birth to November 12, 1971, turned over to the defense, but not released to the press, indicates that the FBI knew as early as November, 1969, that Ellsberg had Xeroxed the Pentagon Papers. The FBI appears to have conducted investigations at least through the Spring of 1970. The defense has not seen the materials.

On May 3, 1973, The Washington Post reported that the White House "tapped the telephones of at least two newspaper reporters in 1971." The wiretapping was apparently authorized by the then Attorney General, John Mitchell, supervised by Robert Mardian, and executed by "Room 16."

Time reported that the official documents authorizing wiretaps on the telephones of reporters and White House aides disappeared from J. Edgar Hoover's personal files in 1971 after he threatened to disclose them.

Defense attorneys gave Judge Byrne a schedule of some 30 pieces of information still undisclosed to the court.

ELMER DAVIS FOLLOW-UP

No Check Made on Ex-Convict's Story of Break-in at Analyst's

Beverly Hills Chief Defends Failure to Examine Jail Records That Would Have Disproved Claim by Suspect

BY ROBERT KISTLER

Times Staff Writer

Police Chief B. L. Cork of Beverly Hills said Monday no attempt was made to determine whether an ex-convict who, according to his officers, confessed to the break-in at the office of Daniel Ellsberg's psychiatrist had been in jail at the time of the crime.

Cork, however, strongly supported his officers' action in the case and said there was no reason for them to run a thorough records check on the convict, Elmer Davis, "because we only had his word that he had committed the break-in, and, therefore, couldn't have prosecuted him anyway."

Defense attorneys in the Pentagon Papers trial said Sunday they had evidence that Davis, 45, could not have broken into the office of Dr. Lewis J. Fielding at 450 N. Bedford Drive the night of Sept. 3-4, 1971, because Davis had been in the county jail at the time.

A check of booking slips at the jail revealed that Davis had been in custody on a petty theft charge from Aug. 26, 1971, to Sept. 5, 1971, Dept. Disty. Atty. Richard M. Hecht confirmed Monday.

Held for Parole Officers

In fact, Davis was not released from the facility until Sept. 9, 1971, because of an additional four-day "hold" placed on him by state parole officers, records show.

Davis was arrested Oct. 7, 1971, by Beverly Hills officers after he was seized in the act of stealing money from the purse of an employee of the

Elizabeth Arden Salon, a dress shop at 9702 Wilshire Blvd.

According to a report written by Det. W. L. Franklin, Davis subsequently admitted to Franklin and Det. Bruce Campbell that he had committed "many thefts" in the Beverly Hills area, including the break-in at Dr. Fielding's office.

Cork said in an interview Monday the two officers "routinely" showed Davis "a number" of burglary reports, including that of the Fielding incident, "and asked him whether he could clear up the paperwork."

In a letter written by Davis Nov. 12, 1971, to Capt. Wayne Rutherford, chief of Beverly Hills detectives, the convict complained that he had refused to confess to the burglaries and that Franklin had offered him a "deal" if he would "cop out" to the crimes.

Cork said he was "convinced beyond any doubt" that neither of the officers suggested a deal of any kind to Davis.

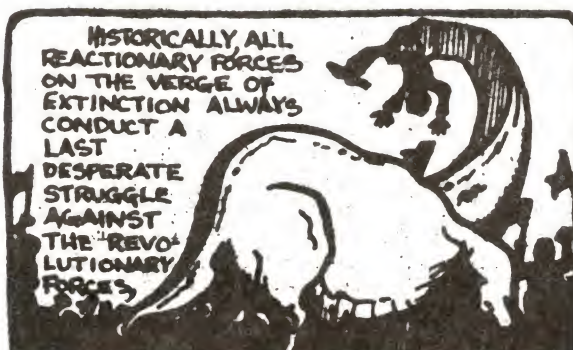
Rutherford said Monday he had questioned the two officers about Davis' allegations after receiving the convict's letter and that he had satisfied himself that the allegations were untrue.

"What burns me up," Cork said, "if Davis now says he didn't confess to the break-in (at Fielding's office), why didn't he once tell anybody that he'd been in jail at the time?"

Davis is now serving time at Folsom on an unrelated parole violation. His eight-page criminal "rap sheet" shows 90 arrests, many for narcotics violations, dating back to 1942.

[Los Angeles Times / May 8, 1973 / Page 3]

Los Angeles District Attorney, Joseph Busch, announced on Wednesday that he has reserved time with the LA grand jury to investigate the burglary of Fielding's office. Presumably, Hunt, Liddy, Krogh, et al. will be called to testify.



COLSON'S STORY

On Thursday, May 10, the defense received the results of an FBI interview with Charles W. Colson, former Special Counsel to President Nixon.

The interview went, in part, as follows:

"Mr. Colson recalled attending meetings in early July, 1971, at the White House concerning the disclosures of the Pentagon Papers and described these meetings as 'kind of panic sessions' to determine what was going on and trying to establish what was going to be published next by the newspapers and the accuracy of these publications. Mr. Colson indicated he was not involved in the White House investigation into the Pentagon Papers disclosures, but was engaged in the Government's litigation to stop publication of the Papers. He was engaged on an almost full-time basis at this time with the preparation of the President's August 15, economics decision initiating Phase I of the Price Freeze."

"When the Pentagon Papers were first published in the 'New York Times' there was a need in the White House for someone to do research and co-ordinate assignments involving investigation into the leak. Colson recalled he recommended Hunt, whom he had known for a period of years and several other individuals for this assignment. Hunt was subsequently interviewed by John D. Ehrlichman. Later, Mr. Colson received a telephone call from Mr. Ehrlichman who was then in California with the President, asking whether Hunt could be brought in and directing that he should be put to work on the investigation."

"Mr. Colson asked his staff secretary to process the necessary papers regarding the employment. Hunt was assigned to Colson's staff for internal budget processing only."

"Mr. Colson knew that the 'Plumbers' were conducting a check for a personality profile of Daniel Ellsberg to determine what motivated him, what kind of 'wild things' he might do. Mr. Colson said there was an enormous concern over leaks of sensitive information at that time."

"Mr. Colson had no discussions or advanced information of the alleged burglary. He knew the Plumbers were going to the West Coast but did not know which of them would actually make the trip. He first heard about the alleged burglary sometime later at a meeting and he could not recall the time of the meeting or who was present. He thought the meeting may have been a private one with Mr. Ehrlichman. He believes Mr. Ehrlichman told him, he does not recall specifically, but he gained the impression from the conversation that 'they' tried to get the records of Ellsberg's psychiatrist and did not get them. Ehrlichman told him this was a national security matter and not to be discussed with anyone. Mr. Colson never heard of any discussion of a burglary attempt on the home of Ellsberg's psychiatrist."

"Mr. Colson was asked if he had any other discussions with White House staff members about the burglary. He recalled in connection with the Watergate investigation prior to the time when he was questioned by the FBI, and gave a deposition to Mr. Silbert of the U.S. Attorney's Office, he asked John Dean what to do if the 'Pentagon Papers question came up.'"

"Dean told him that if asked, he was not to discuss the matter, inasmuch, as it was a national security matter of the highest classification and that he [Dean] would interrupt such questions if present. He recalled receiving the same instructions from Mr. Ehrlichman in late March or April, 1973."

"Concerning a current newspaper story [corroborated by Hunt's grand jury testimony] that Hunt reportedly tried to talk to Mr. Colson sometime later about the burglary, Colson recalled a chance meeting with Hunt one morning in his outer office. Hunt was waiting for him but Mr. Colson couldn't recall when the meeting took place. Hunt told him that he was on his way to give a briefing on what 'they' had learned about Ellsberg, and that he had about a half an hour before the briefing and he wanted to talk to Colson about it. Colson told Hunt he did not have time to talk to him then, that he was in a hurry. Hunt did not try to broach the subject matter again."

"Concerning a recent newspaper story according to which Egil Krogh reportedly said he requested funds from Colson for implementing the effort to acquire information about Ellsberg, Colson could not recall Krogh asking him for money for the trip to California. He has a vague recollection that at about that time Mr. Ehrlichman spoke to him about getting some funds, maybe for Krogh, but when he checked with Mr. Ehrlichman later, Ehrlichman could not recall the request."

"From time to time Colson saw memoranda prepared for the White House group working on the Pentagon Papers investigation, but he saw no reports prepared by that group. The memoranda which were shown to him by Hunt because of Colson's general interest in the issue of the Pentagon Papers, spoke of Hunt's frustrations trying to get things done in the Plumbers unit and Hunt's analyses of the investigation. Colson saw nothing related to the psychological study of Ellsberg. The normal channel for papers generated by the Plumbers was to Egil Krogh and David Young. Colson had no information about the whereabouts or results of investigation conducted by that group."

"Colson had no knowledge of other illegal activities engaged in by the group conducting the Pentagon Papers investigation on behalf of the White House."

Colson either was not asked or did not address the questions raised in Hunt's testimony about Colson's role in the forgery of State Department cables.

DeDIEGO WANTS IMMUNITY

Judge Byrne also turned over to the defense an FBI interview with Felipe DeDiego. Diego said "he would tell everything he knows about these activities if he was granted immunity by the grand jury."

PETERSEN'S WIRETAP REPORT

In response to Judge Byrne's questions about the existence of wiretaps, Assistant Attorney General Henry E. Petersen submitted the following:

"1. How many interceptions of Ellsberg were there in 1969 and 1970?"

"We do not know the answer to this question because as yet we have not been able to locate the records."

"2. How long was surveillance of Halperin's residence?"

"The surveillance occurred between the Spring of 1969 and June of 1971 as best we can determine. We do not know for what period of time within that span the surveillance was active."

"3. What was the nature of the surveillance? (Example, was it court authorized, authorized by the AG, etc.)?"

"Testimonial evidence indicates that surveillance were authorized by the Attorney General in accordance with national security procedures. The records, however, have not been found."

"4. Is it still correct that there are no records of the surveillance? (Ellsberg)."

"As of this date we have been unable to locate the records."

"5. Why, when the indexes were run for Halperin during the period specified for his consultancy, was his name not discovered as having been the subject of surveillance?"

"The period for Halperin's consultancy was from November, 1971, to the present. The court directed us to search the FBI records for surveillance during this period. There was no surveillance nor overhearings of Morton Halperin during this time frame."

"6. The judge wants full report on the results of the Ruckelshaus investigation into wiretapping on the Ellsberg case."

"Our investigation indicates no wiretapping interceptions by the FBI relating to the Pentagon Papers investigation, except those already submitted to the court in camera and those were not conducted in connection with the Pentagon Papers investigation."

"7. What were the procedures at the time of this surveillance operation? (What type of records were kept -- tapes, logs, records, etc.)?"

"Telephonic interceptions were tape recorded and logs were transcribed from the tapes. Summaries of the logs were prepared and tapes were erased."

"8. Why is there no record in the FBI's office or the Department of Justice of these supposed overhearings?"

"One of the purposes of the present investigation underway is to determine the reason for the disappearance of these FBI and Dept. of Justice records and the disposition thereof. Key interviews are currently being conducted the results of which are expected to be obtained shortly. Our investigation shows records had been maintained, however, these records are now missing and have been since approximately July-October 1971."

"9. The Court wants a check for any electronic surveillance of Halperin back to January 1, 1967. If there are no logs or records, why not?"

"We are checking our records back to 1967 and we will furnish that information as soon as it is available."

"10. If there were logs and records and they're gone, why and where are they?"

"See answer No. 8."